



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:

Case No. ZRA 130

Date Filed: MAY 11 2011

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows:

To amend Section 103 : Definitions of the Zoning Regulations to establish new definitions in Section 103.A for the terms "Farm", "Farm Winery", "Farm Winery – Class 1", "Farm Winery – Class 2", and "Wine and Similar Fermented Beverages".

To amend Section 104: RC (Rural Conservation) District to add "Farm Winery – Class 1" as a permitted accessory use under Section 104.C., subject to certain permit provisions; to add "Farm Winery – Class 1" and "Farm Winery – Class 2" to Section 104.F.3.c. as Conditional Use categories that are permitted on Preservation Parcels; and to add "Farm Winery – Class 1" and "Farm Winery – Class 2" to Section 104.G. as permitted Conditional Use categories.

To amend Section 105: RR (Rural Residential) District to add "Farm Winery – Class 1" as a permitted accessory use under Section 105.C., subject to certain permit provisions; to add "Farm Winery – Class 2" to Section 105.F.3.c. as a Conditional Use category that is permitted on Preservation Parcels; and to add "Farm Winery – Class 2" to Section 105.G. as a permitted Conditional Use category.

To amend Section 128: Supplementary Zoning District Regulations to establish a new Section 128.M for the criteria and permit requirements for a "Farm Winery – Class 1" use as an accessory use to farming uses in the RC and RR Districts.

To amend Section 131: Conditional Uses to establish a new Section 131.N.53 for the specific criteria for a "Farm Winery – Class 1" use as a Conditional Use on parcels including a Preservation Parcel, that is less than 10 acres in the RC District, and to establish a new Section 131.N.54 for the specific criteria for a "Farm Winery – Class 2" use as a Conditional Use on parcels that are 25 acres or greater in the RC and RR Districts.

2. Petitioner's Name:

Marsha S. McLaughlin, Director, Department of Planning and Zoning

Address 8930 Stanford Boulevard, Columbia, Maryland 21045

Phone No. (W) 410-313-2350 (H) N/A

Email Address mmclaughlin@howardcountymd.gov

3. Counsel for Petitioner Paul Johnson, Deputy County Solicitor

Counsel's Address 8930 Stanford Boulevard, Columbia, Maryland 21045

Counsel's Phone No. 410-313-2101

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed: Although Howard County sponsors the very successful and popular "Wine in the Woods" festival, now in its 18th year, which will have over 30 Maryland wineries present, none of these Maryland wineries are from Howard County. Other Maryland counties have thriving winery farm operations, but an evaluation of the Zoning Regulations in comparison to other jurisdictions found that the current regulations applied to winery uses are among the most restrictive in the entire State. The basic reasons for the requested amendments are to make it easier for wineries to open and operate as a distinct farming use in Howard County, and thereby help promote grapes and/or other wine related ingredients as agricultural products adding to the marketing potential for Howard County farms and other farms in the region.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County: The proposed amendment is in general concurrence with Preservation of the Rural West Policy No. 3.7 to "Develop effective County programs to assist the agricultural industry with marketing and economic development issues.", and is specifically in harmony with the goal of that policy regarding "Increasing the Value Of Farm Products" by better allowing "...farmers to increase the sale value of their products through 'value-added processing.'" Additional justification may be provided at the Planning Board meeting and County Council hearing for this Zoning Regulation Amendment proposal.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. In terms of providing more opportunity for economic development in the agricultural and tourism sectors, this proposed amendment is in harmony with the intent "To provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . There are public benefits because the proposed amendments would support the agricultural uses in the County by providing new opportunities for winery farming operations and by adding grapes and/or other wine related ingredients as potential agricultural products for farms overall. There would be increased farm-operation economic development associated with the sale of the value-added wine products, and increased County-wide economic development associated with tourism activities linked to winery operations.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The number of properties is greater than 12, because the proposed amendments for wineries as permitted accessory uses could apply to many existing farm properties in the RC and RR Districts, the proposed new Conditional Use category for "Farm Winery – Class 1" would apply to RC District properties that are less than ten, but greater than 5 acres in size, and the proposed new Conditional Use category for "Farm Winery – Class 2" would apply to RC and RR District properties that are 25 acres or larger, as further limited by the specific criteria for both the Class 1 and Class 2 levels.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. There are no other factors at this time, but more may be provided during the public meeting and public hearing processes for this Zoning Regulation amendment.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard

LETTERS, and any existing text to be deleted must be in **[[Double Bold Brackets]]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
9. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Marsha S. McLaughlin, Director
Petitioner's name (Printed or typed)

Marsha S. McLaughlin 5/13/10
Petitioner's Signature Date

Petitioner's name (Printed or typed)

Petitioner's Signature Date

Paul T. Johnson 5/14/10
Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:5/08

T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application Draft

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

ZONING MATTER: _____

AFFIDAVIT AS TO CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Marsha S. McLaughlin, the applicant in the above zoning matter

_____, HAVE ☒ HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: Marsha S. McLaughlin

Date: 5/17/10

ZONING MATTER: _____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Martha S. H. Leight, the applicant in the above zoning matter

_____, AM ✓ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: Martha S. H. Leight

Date: 5/17/10

ZONING MATTER: _____

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: _____

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Name: _____

Date: _____

ZRA 130 – Exhibit A
Petitioner's Proposed Text

Section 103. Definitions

Section 103.A.

76. FARM: A LOT OR PARCEL PRINCIPALLY USED FOR FARMING.
79. FARM WINERY: AN AGRICULTURAL PROCESSING FACILITY LOCATED ON A FARM WITH A VINEYARD, ORCHARD, HIVES, OR SIMILAR AREA, WHICH CONSISTS OF VINIFICATION EQUIPMENT, COMPONENTS AND SUPPLIES FOR THE PROCESSING, PRODUCTION AND PACKAGING OF WINE AND SIMILAR FERMENTED BEVERAGES ON THE PREMISES. FARM WINERY ACTIVITIES MAY INCLUDE ASSOCIATED CRUSHING, FERMENTING AND REFERMENTING, DISTILLING, BLENDING, BOTTLING, STORAGE, AGING, SHIPPING, RECEIVING, AND MAY ALSO INCLUDE ACCESSORY FACILITIES FOR LABORATORY WORK, MAINTENANCE, AND OFFICE FUNCTIONS.
80. FARM WINERY – CLASS 1: A FARM WINERY WHICH OPERATES FOR PURPOSES OF WINE TASTING, WINE SALES, TOURS, EDUCATIONAL PROGRAMS, MEETINGS AND SOCIAL EVENTS.
81. FARM WINERY – CLASS 2: A FARM WINERY WHICH OPERATES ON AT LEAST 25 ACRES FOR THE PURPOSES OF WINE TASTING, WINE SALES, TOURS, EDUCATIONAL PROGRAMS, MEETINGS, SOCIAL EVENTS AND SPECIAL EVENTS.
199. WINE AND SIMILAR FERMENTED BEVERAGES: BEVERAGES CONTAINING ALCOHOL WHICH ARE PRODUCED FROM GRAPES, FRUITS, OTHER PLANTS, AND/OR HONEY THROUGH A NATURAL FERMENTATION OR DISTILLATION PROCESS, BUT WHICH ARE NOT BEER, ALE, PORTER, STOUT AND SIMILAR MALT-BASED OR GRAIN-BASED BEVERAGES.

[Renumber other Section 103.A subsections accordingly]

Amendments to Section 104: RC (Rural Conservation) District

Section 104: RC (Rural Conservation) District

C. Accessory Uses

16. FARM WINERY – CLASS 1, SUBJECT TO THE REQUIREMENTS OF SECTION 128.M.1.

F. Cluster Subdivision Requirements

3. Permitted Uses on Preservation Parcels

- C. Conditional uses which do not require construction of new principal structures or use of an outdoor area that is more than 2% of the preservation parcel up to a maximum of 1 acre may be allowed on preservation parcels, provided the land area used is not suitable for agriculture. In addition, the following conditional uses which may require additional structures or land area may be permitted on preservation parcels:

- (1) Agribusiness, limited to the uses itemized in Section 131.N.2
- (2) Country clubs and golf courses
- (3) Farm tenant houses on lots of at least 25 but less than 50 acres
- (4) Riding academies and stables
- (5) Charitable or philanthropic institutions dedicated to environmental conservation
- (6) FARM WINERY – CLASS 1
- (7) FARM WINERY – CLASS 2

Conditional uses shall not be allowed on preservation parcels (or on the portion of a parcel encumbered by a preservation parcel easement) unless they support the primary purpose of the preservation parcel and are approved by the Board of Appeals in accordance with the applicable provisions of Sections 130 and 131 of these Regulations.

G. Conditional Uses

- 40. FARM WINERY – CLASS 1
- 41. FARM WINERY – CLASS 2

[Renumber other Section 104 subsections accordingly]

Amendments to Section 105: RR (Rural Residential) District

Section 105: RR (Rural Residential) District

C. Accessory Uses

16. FARM WINERY – CLASS 1, SUBJECT TO THE REQUIREMENTS OF SECTION 128.M.1.

F. Cluster Subdivision Requirements

3. Permitted Uses on Preservation Parcels

- C. Conditional uses which do not require construction of new principal structures or use of an outdoor area that is more than 2% of the preservation parcel up to a maximum of 1 acre may be allowed on preservation parcels, provided the land area used is not suitable for agriculture. In addition, the following conditional uses which may require additional structures or land area may be permitted on preservation parcels:

- (1) Agribusiness, limited to the uses itemized in Section 131.N.2
- (2) Country clubs and golf courses
- (3) Farm tenant houses on lots of at least 25 but less than 50 acres
- (4) Riding academies and stables
- (5) Charitable or philanthropic institutions dedicated to environmental conservation
- (6) FARM WINERY – CLASS 2

Conditional uses shall not be allowed on preservation parcels (or on the portion of a parcel encumbered by a preservation parcel easement) unless they support the primary purpose of the preservation parcel and are approved by the Board of Appeals in accordance with the applicable provisions of Sections 130 and 131 of these Regulations.

G. Conditional Uses

40. FARM WINERY – CLASS 2

[Renumber other Section 105 subsections accordingly]

Establishment of new Section 128.M

M. FARM WINERY – CLASS 1

1. A FARM WINERY – CLASS 1 IS PERMITTED AS AN ACCESSORY USE TO FARMING IN THE RC AND RR DISTRICTS, PROVIDED THAT IT COMPLIES WITH THE FOLLOWING CRITERIA:
 - A. THE USE IS LOCATED ON A LOT OR PARCEL OF AT LEAST 10 ACRES. THIS USE IS PERMITTED ON ANY SUCH PARCEL, INCLUDING PARCELS WITH AGRICULTURAL PRESERVATION EASEMENTS AND PRESERVATION PARCELS.
 - B. THE LOT OR PARCEL UPON WHICH THE FARM WINERY IS LOCATED SHALL HAVE FRONTAGE ON AND DIRECT ACCESS TO A ROAD CLASSIFIED AS AN ARTERIAL OR COLLECTOR PUBLIC ROAD. UNLESS THE DEPARTMENT OF PLANNING AND ZONING APPROVES ACCESS TO A LOCAL ROAD AS PROVIDED IN SECTION 128.M.1.C, THE SOLE ACCESS TO AND FROM THE SITE SHALL BE FROM THE ARTERIAL OR COLLECTOR PUBLIC ROAD.
 - C. THE DEPARTMENT OF PLANNING AND ZONING MAY APPROVE ACCESS TO A LOCAL ROAD UPON FINDINGS THAT ACCESS TO AN ARTERIAL OR COLLECTOR PUBLIC ROAD RIGHT-OF-WAY IS NOT FEASIBLE, THE ACCESS TO THE LOCAL ROAD IS SAFE BASED ON ROAD CONDITIONS AND ACCIDENT HISTORY, AND THAT THE USE OF THE LOCAL ROAD FOR ACCESS TO THE WINERY WILL NOT UNDULY CONFLICT WITH OTHER USES THAT ACCESS THE LOCAL ROAD.
 - D. ALL WINERY RELATED STRUCTURES AND USES EXCLUDING CULTIVATION AREAS SHALL BE AT LEAST 75 FEET FROM ALL LOT LINES.
 - E. PLANTING OF AT LEAST TWO ACRES OF GRAPES OR OTHER FRUIT ON THE PROPERTY SHALL BE INITIATED UPON APPROVAL AND COMPLETED WITHIN TWO YEARS OF RECEIVING THE INITIAL PERMIT.
 - F. APPROPRIATE SCREENING OF ADJOINING PARCELS SHALL BE PROVIDED, WHICH MAY INCLUDE A SOLID FENCE, WALL, LANDSCAPING OR A COMBINATION THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE BUFFER.
 - G. THE FARM WINERY SHALL BE CONSISTENT WITH AND SUPPORT THE FARM AND ITS PRODUCTION, SHALL NOT INTERFERE WITH THE IMPLEMENTATION OF SOIL CONSERVATION AND WATER QUALITY BEST MANAGEMENT PRACTICES, AND SHALL NOT IMPACT FLOODPLAINS, WETLANDS, STREAM BUFFERS, STEEP SLOPES OR OTHER ENVIRONMENTAL FEATURES ON THE FARM WINERY PROPERTY.
 - H. THE FARM WINERY SHALL BE COMPATIBLE WITH THE RURAL CHARACTER OF THE FARM AND THE SURROUNDING AREA.

- I. A FARM WINERY MAY PRODUCE, SERVE AND SELL FOOD TO COMPLEMENT WINE TASTING AS ALLOWED UNDER A STATE CLASS 4 WINERY LICENSE IN ACCORDANCE WITH ARTICLE 2B OF MARYLAND STATE CODE.
 - J. ANY ACCESSORY RETAIL SALES WITHIN THE FARM WINERY, OTHER THAN THE WINE AND SIMILAR FERMENTED BEVERAGES PRODUCED AT THE FARM WINERY, ARE LIMITED TO ITEMS PROMOTING THE SAME FARM WINERY, SUCH AS GLASS WEAR, CLOTHING AND WINE-RELATED ITEMS SUCH AS WINE OPENERS. A FARM WINERY IS PERMITTED TO SELL PLANTS AND/OR PRODUCE GROWN ON-SITE.
 - K. OPERATION HOURS SHALL BE RESTRICTED TO BETWEEN 9:00 A.M. AND 5:00 P.M., MONDAY THROUGH THURSDAY; BETWEEN 9:00 A.M. AND 7:00 P.M., FRIDAY AND SATURDAY; AND BETWEEN 10:00 A.M. AND 5:00 P.M., SUNDAY. THE DEPARTMENT OF PLANNING AND ZONING MAY REDUCE THE HOURS OF OPERATION BUT SHALL NOT INCREASE THEM.
 - L. THE NUMBER OF VISITORS AT ANY ONE TIME SHALL NOT EXCEED 20 FOR A FARM WINERY OF 10 ACRES. AN ADDITIONAL TWO PEOPLE PER ACRE FOR EACH ADDITIONAL ACRE SHALL BE ALLOWED UP TO A MAXIMUM OF 50 VISITORS AT A TIME.
2. THE OWNER OF A FARM WINERY – CLASS 1 SHALL OBTAIN A PERMIT TO BE ISSUED BY THE DEPARTMENT OF PLANNING AND ZONING (“DPZ”) IF IT DETERMINES THAT THE USE COMPLIES WITH THE CRITERIA IN SECTION 128.M.1. NOTED ABOVE. IF APPROVED, THE OWNER SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING AND ZONING PROVING COMPLIANCE WITH SECTION 128.M.1.E. AND THAT IT REMAINS IN COMPLIANCE WITH ALL THE OTHER APPROVAL CRITERIA. THEREAFTER, PERMIT RENEWAL IS NOT REQUIRED UNLESS A VIOLATION OCCURS. IT IS THE RESPONSIBILITY OF THE FARM WINERY OWNER TO OBTAIN ANY OTHER REQUIRED FEDERAL, STATE AND COUNTY APPROVALS REQUIRED PRIOR TO OPERATING THE USE.

ESTABLISHMENT OF A NEW SECTION 131.N.53

SECTION 131: CONDITIONAL USES

N. CONDITIONAL USES AND PERMISSIBLE ZONING DISTRICTS

53. FARM WINERY – CLASS 1

A CONDITIONAL USE MAY BE GRANTED FOR A FARM WINERY – CLASS 1 FOR A PARCEL INCLUDING A PRESERVATION PARCEL, THAT IS LESS THAN 10 ACRES, PROVIDED THAT IT IS IN THE RC DISTRICT AND COMPLIES WITH THE FOLLOWING CRITERIA:

- A. THE USE IS LOCATED ON A LOT OR PARCEL WHICH HAS FRONTAGE ON AND DIRECT ACCESS TO A ROAD CLASSIFIED AS AN ARTERIAL OR COLLECTOR PUBLIC HIGHWAY.
- B. IN NO CASE SHALL A CONDITIONAL USE FOR A CLASS 1 WINERY BE APPROVED ON A PARCEL LESS THAN 5 ACRES.
- C. ALL WINERY RELATED STRUCTURES AND USES EXCLUDING CULTIVATION AREAS SHALL BE AT LEAST 75 FEET FROM ALL LOT LINES.
- D. PLANTING OF AT LEAST TWO ACRES OF GRAPES OR OTHER FRUIT ON THE PROPERTY SHALL BE INITIATED UPON APPROVAL AND COMPLETED WITHIN TWO YEARS OF APPROVAL.
- E. THE FARM WINERY SHALL BE CONSISTENT WITH AND SUPPORT THE FARM AND ITS PRODUCTION, SHALL NOT INTERFERE WITH THE IMPLEMENTATION OF SOIL CONSERVATION AND WATER QUALITY BEST MANAGEMENT PRACTICES, AND SHALL NOT IMPACT FLOODPLAINS, WETLANDS, STREAM BUFFERS, STEEP SLOPES OR OTHER ENVIRONMENTAL FEATURES ON THE FARM WINERY PROPERTY.
- F. THE FARM WINERY SHALL BE COMPATIBLE WITH THE RURAL CHARACTER OF THE FARM AND THE SURROUNDING AREA.
- G. THE HEARING AUTHORITY MAY REQUIRE APPROPRIATE SCREENING OF ADJOINING PARCELS, WHICH MAY INCLUDE A SOLID FENCE, WALL, LANDSCAPING, OR A COMBINATION THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE BUFFER.
- H. ANY ACCESSORY RETAIL SALES WITHIN THE FARM WINERY, OTHER THAN THE WINE AND SIMILAR FERMENTED BEVERAGES PRODUCED AT THE FARM WINERY, ARE LIMITED TO ITEMS PROMOTING THE SAME FARM WINERY, SUCH AS GLASS WEAR, CLOTHING, AND WINE-RELATED ITEMS SUCH AS WINE OPENERS. A FARM WINERY IS PERMITTED TO SELL PLANTS AND/OR PRODUCE GROWN ON-SITE.
- I. OPERATION HOURS SHALL BE RESTRICTED TO BETWEEN 9:00 A.M. AND 5:00 P.M., MONDAY THROUGH THURSDAY; BETWEEN 9:00 A.M. AND 7:00 P.M., FRIDAY AND SATURDAY; AND BETWEEN 10:00 A.M. AND 5:00 P.M., SUNDAY. THE HEARING AUTHORITY MAY REDUCE THE HOURS OF OPERATION, BUT SHALL NOT INCREASE THEM.

- J. THE NUMBER OF VISITORS AT ANY ONE TIME SHALL NOT EXCEED TWO PEOPLE PER ACRE.
- J. A FARM WINERY MAY PRODUCE, SERVE AND SELL FOOD TO COMPLEMENT WINE TASTING AS ALLOWED UNDER A STATE CLASS 4 WINERY LICENSE IN ACCORDANCE WITH ARTICLE 2B OF MARYLAND STATE CODE.
- K. IF APPROVED, THE OWNER SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING AND ZONING PROVING COMPLIANCE WITH SECTION 131.N.53.D. IT IS THE RESPONSIBILITY OF THE FARM WINERY OWNER TO OBTAIN ANY OTHER REQUIRED FEDERAL, STATE AND COUNTY APPROVALS REQUIRED PRIOR TO OPERATING THE USE.

ESTABLISHMENT OF A NEW SECTION 131.N.54

SECTION 131: CONDITIONAL USES

N. CONDITIONAL USES AND PERMISSIBLE ZONING DISTRICTS

54. FARM WINERY – CLASS 2

A CONDITIONAL USE MAY BE GRANTED FOR A FARM WINERY – CLASS 2 IN THE RC AND RR DISTRICTS, PROVIDED THAT IT COMPLIES WITH THE FOLLOWING CRITERIA:

- A. THE USE IS LOCATED ON A PARCEL OF AT LEAST 25 ACRES. THE USE IS PERMITTED ON ANY SUCH PARCEL, INCLUDING PARCELS WITH AGRICULTURAL LAND PRESERVATION EASEMENTS AND PRESERVATION PARCELS.
- B. THE LOT OR PARCEL UPON WHICH THE FARM WINERY IS LOCATED SHALL HAVE FRONTAGE ON AND DIRECT ACCESS TO A ROAD CLASSIFIED AS AN ARTERIAL OR COLLECTOR PUBLIC ROAD. UNLESS THE HEARING AUTHORITY APPROVES ACCESS TO A LOCAL ROAD AS PROVIDED IN SECTION 131.N.54.C., THE SOLE ACCESS TO AND FROM THE SITE SHALL BE FROM THE ARTERIAL OR COLLECTOR PUBLIC ROAD.
- C. THE HEARING AUTHORITY MAY APPROVE ACCESS TO A LOCAL ROAD UPON FINDINGS THAT ACCESS TO AN ARTERIAL OR COLLECTOR PUBLIC ROAD RIGHT-OF-WAY IS NOT FEASIBLE, THE ACCESS TO THE LOCAL ROAD IS SAFE BASED ON ROAD CONDITIONS AND ACCIDENT HISTORY, AND THAT THE USE OF THE LOCAL ROAD FOR ACCESS TO THE WINERY WILL NOT UNDULY CONFLICT WITH OTHER USES THAT ACCESS THE LOCAL ROAD.
- D. THE DRIVEWAY PROVIDING ACCESS TO THE PROPOSED SITE SHALL NOT BE SHARED WITH OTHER PROPERTIES, HOWEVER THE HEARING AUTHORITY MAY WAIVE THIS CRITERIA IF THE PETITIONER PROVIDES AFFIDAVITS FROM ALL PERSONS WHO ALSO SHARE THE DRIVEWAY THAT THEY DO NOT OBJECT TO THE USE OF THE DRIVEWAY FOR THE FARM WINERY. IF THE USE OF A SHARED DRIVEWAY IS ALLOWED, THE PETITIONER SHALL DEMONSTRATE THAT THE USE WILL NOT RESULT IN DAMAGE TO OR DETERIORATION OF THE SHARED DRIVEWAY OR IN INCREASED HAZARDS TO OTHER USERS OF THE DRIVEWAY. THE HEARING AUTHORITY SHALL PRESCRIBE APPROPRIATE CONDITIONS AND SAFEGUARDS TO ENSURE THE FARM WINERY OWNER'S RESPONSIBILITY FOR REPAIR OF ANY DAMAGE OR DETERIORATION OF THE SHARED DRIVEWAY CAUSED BY THE CONDITIONAL USE, INCLUDING REQUIREMENTS FOR SURFACING OF ACCESS DRIVEWAYS.
- E. ALL WINERY RELATED STRUCTURES AND USES EXCLUDING AGRICULTURAL AREAS SHALL BE AT LEAST 75 FEET FROM A PUBLIC ROAD RIGHT-OF-WAY AND 150 FEET FROM ALL OTHER LOT LINES. THE HEARING AUTHORITY MAY REDUCE THE SETBACK OF 150 FEET FROM THE LOT LINES, BUT ONLY TO A MINIMUM OF 75 FEET, IF:

- (1) THE ADJOINING LAND IS COMMITTED TO AN AGRICULTURAL OR ENVIRONMENTAL PRESERVATION EASEMENT OR A LONG TERM INSTITUTIONAL OR OPEN SPACE USE THAT PROVIDES AN EQUIVALENT OR BETTER BUFFER; OR
 - (2) THE PETITION INCLUDES DETAILED PLANS FOR SCREENING. THE HEARING AUTHORITY MAY REQUIRE APPROPRIATE SCREENING OF ADJOINING PARCELS, WHICH MAY INCLUDE A SOLID FENCE, WALL, LANDSCAPING, OR A COMBINATION, THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE BUFFER.
- F. PLANTING OF AT LEAST TWO ACRES OF GRAPES OR OTHER FRUIT ON THE PROPERTY SHALL BE INITIATED UPON APPROVAL AND COMPLETED WITHIN TWO YEARS OF APPROVAL.
- G. THE FARM WINERY SHALL BE CONSISTENT WITH AND SUPPORT THE FARM AND ITS PRODUCTION, SHALL NOT INTERFERE WITH THE IMPLEMENTATION OF SOIL CONSERVATION AND WATER QUALITY BEST MANAGEMENT PRACTICES, AND SHALL NOT IMPACT FLOODPLAINS, WETLANDS, STREAM BUFFERS, STEEP SLOPES OR OTHER ENVIRONMENTAL FEATURES ON THE FARM WINERY PROPERTY.
- H. THE FARM WINERY SHALL BE COMPATIBLE WITH THE RURAL CHARACTER OF THE FARM AND THE SURROUNDING AREA.
- I. OPERATION HOURS SHALL BE RESTRICTED TO BETWEEN 9:00 A.M. AND 10:00 P.M., MONDAY THROUGH THURSDAY; BETWEEN 9:00 A.M. AND 11:30 P.M., FRIDAY AND SATURDAY; AND BETWEEN 10:00 A.M. AND 10:00 P.M., SUNDAY. THE HEARING AUTHORITY MAY REDUCE THE HOURS OF OPERATION BUT SHALL NOT INCREASE THEM.
- J. THE FARM WINERY SHALL BE LIMITED TO TWO CATEGORIES OF ATTENDEE EVENTS; EVERYDAY EVENTS AND SPECIAL EVENTS, EACH WITH SPECIFIC LIMITATIONS AS FOLLOWS:
- (1.) AN EVERYDAY EVENT IS ONE THAT MAY OCCUR EACH DAY OF OPERATION WITHIN A CALENDAR YEAR, OR AS MAY BE FURTHER LIMITED BY THE HEARING AUTHORITY, AND THE NUMBER OF ATTENDEES AT ANY SINGLE TIME SHALL BE AS SPECIFIED BY THE HEARING AUTHORITY, BUT ONLY UP TO A MAXIMUM OF 50 PERSONS AT ANY GIVEN TIME. THE MOST COMMON TYPE OF ACTIVITY IN AN EVERYDAY EVENT IS THAT OF CUSTOMERS VISITING A TASTING ROOM AT THE FARM WINERY TO SAMPLE OR PURCHASE THE PRODUCTS PRODUCED THEREIN, BUT MAY INCLUDE OTHER LOW-INTENSITY ACTIVITIES SUCH AS INDIVIDUAL OR SMALL GROUP TOURS, EDUCATIONAL PROGRAMS, MEETINGS, AND SOCIAL EVENTS; AND
 - (2.) A SPECIAL EVENT IS AN INDOOR AND/OR OUTDOOR EVENT THAT MAY BE APPROVED BY THE HEARING AUTHORITY FOR UP TO FIFTEEN (15) DAYS WITHIN A CALENDAR YEAR. THE MAXIMUM NUMBER OF ATTENDEES AT ANY GIVEN TIME ON A 25 ACRE FARM SHALL BE 150 PERSONS, PROVIDED, HOWEVER, THAT THE HEARING AUTHORITY MAY INCREASE THIS MAXIMUM NUMBER OF ATTENDEES IN ACCORDANCE WITH SECTION 131.N.54.K. IF THE PROPERTY

QUALIFIES FOR SUCH AN INCREASE. FOR A SPECIAL EVENT THAT OCCURS ON MORE THAN ONE CALENDAR DAY, EACH CALENDAR DAY IS COUNTED AS ONE EVENT.

- K. THE STANDARD MAXIMUM NUMBER OF PERSONS PERMITTED TO VISIT THE PROPERTY AT ANY ONE TIME FOR SPECIAL EVENTS SHALL BE 150 ATTENDEES. THE HEARING AUTHORITY MAY INCREASE THE MAXIMUM NUMBER OF SPECIAL EVENT ATTENDEES BY 5 PEOPLE FOR EVERY ACRE OF LAND AREA ABOVE THE MINIMUM 25 ACRE PARCEL SIZE, BASED UPON THE GROSS ACREAGE OF THE PARCEL, UP TO A TOTAL MAXIMUM OF 500 ATTENDEES.

IF THE FARM WINERY IS LOCATED ON A FARM WHICH IS COMPRISED OF MORE THAN ONE PARCEL UNDER THE SAME OWNERSHIP (THE "OVERALL FARM"), THE HEARING AUTHORITY MAY BASE THIS POTENTIAL ATTENDEE INCREASE ON THE GROSS ACREAGE OF THE OVERALL FARM AS LONG AS THERE IS A CONDITION TO DECREASE THE NUMBER OF ATTENDEES IF FOR ANY REASON THE LAND AREA OF THE OVERALL FARM IS REDUCED AFTER THE INITIAL CONDITIONAL USE APPROVAL.

- L. A FARM WINERY MAY PRODUCE, SERVE AND SELL FOOD TO COMPLEMENT WINE TASTING AS ALLOWED UNDER A STATE CLASS 4 WINERY LICENSE IN ACCORDANCE WITH ARTICLE 2B OF MARYLAND STATE CODE.
- M. ANY ACCESSORY RETAIL SALES WITHIN THE FARM WINERY, OTHER THAN THE WINE AND SIMILAR FERMENTED BEVERAGES PRODUCED AT THE FARM WINERY, ARE LIMITED TO ITEMS PROMOTING THE SAME FARM WINERY, SUCH AS GLASS WEAR, CLOTHING AND WINE-RELATED ITEMS SUCH AS WINE OPENERS. A FARM WINERY IS PERMITTED TO SELL PLANTS AND/OR PRODUCE GROWN ON-SITE.
- N. IF APPROVED, THE OWNER SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING AND ZONING PROVING COMPLIANCE WITH SECTION 131.N.54.F. IT IS THE RESPONSIBILITY OF THE FARM WINERY OWNER TO OBTAIN ANY OTHER REQUIRED FEDERAL, STATE AND COUNTY APPROVALS REQUIRED PRIOR TO OPERATING THE USE.